

### **REMARKS**

In the Office Action, the Examiner rejected claims 1-10 and 12-22. Applicants canceled claim 11 in a previous communication. By the present Response, Applicants amend claims 1, 9, 10, 13-15, 17, 18 and 21 to further clarify the claimed subject matter. Upon entry of the amendments, claims 1-10 and 12-22 will remain pending in the present patent application. Applicants respectfully request reconsideration of the above-referenced application in view of the foregoing amendments and the following remarks.

### **Rejections under 35 U.S.C. § 102**

In the Office Action, the Examiner rejected claims 1-10 and 13-22 under 35 U.S.C. § 102(a) as anticipated by Babula et al., U.S. Publication No. 2003/0061071. Applicants respectfully request withdrawal of this rejection.

### ***Legal Precedent***

Anticipation under Section 102 can be found only if a single reference shows exactly what is claimed. *Titanium Metals Corp. v. Banner*, 227 U.S.P.Q. 773 (Fed. Cir. 1985). For a prior art reference to anticipate under Section 102, every element of the claimed invention must be identically shown in a single reference. *In re Bond*, 15 U.S.P.Q.2d 1566 (Fed. Cir. 1990). Moreover, the prior art reference also must show the *identical* invention “*in as complete detail as contained in the ... claim*” to support a *prima facie* case of anticipation. *Richardson v. Suzuki Motor Co.*, 9 U.S.P.Q.2d 1913, 1920 (Fed. Cir. 1989) (emphasis added). Accordingly, Applicants need only point to a single element not found in the cited reference to demonstrate that the cited reference fails to anticipate the claimed subject matter.

***Omitted Features of Independent Claims 1 and 18***

Turning now to the present claims, the Babula reference fails to disclose each element of independent claims 1 and 18. For instance, independent claim 1 recites “a server system operable to receive data automatically transmitted from a medical device.” (Emphasis added). Independent claim 18 recites similar subject matter.

In contrast, the Babula reference only appears to disclose enabling “operations personnel to submit a problem query to the service facility and to search the service facility library.” Babula, paragraph 0009 (emphasis added). For example, in the Final Office Action mailed on March 16, 2009, the Examiner contended that Babula teaches “a server system operable to receive data from a medical device” because paragraph 0015 and FIG. 6 of Babula disclose “an exemplary user interface page . . . for placing service requests, and sending and receiving service data.” Final Office Action, page 3. However, because Babula teaches a user interface for initiating contact with the remote service facility, it does not appear to disclose automatically transmitting data from a medical device. Because the Babula reference fails to disclose such an element, the cited reference fails to anticipate independent claims 1 and 18.

***Omitted Features of Independent Claims 9, 13 and 21***

The Babula reference also fails to disclose each element of independent claims 9, 13 and 21. For instance, independent claim 9 recites “automatically sending data from a remote medical device to a service center.” (Emphasis added). Independent claims 13 and 21 recite similar subject matter.

As previously discussed, the Babula reference only appears to disclose manually sending data from a remote medical device. For example, the Examiner contended that Babula teaches that “applications may permit the field service engineer to address service requests at the diagnostic system site, or remote from the site as required, and transmit

service messages and updates.” Final Office Action, page 7. Because Babula teaches that a field service engineer addresses service requests, it does not appear to disclose automatically sending data from a remote medical device. Therefore, because the Babula reference fails to disclose such an element, the cited reference fails to anticipate independent claims 9, 13 and 21.

***Omitted Features of Independent Claims 14 and 17***

Furthermore, the Babula reference fails to disclose each element of independent claims 14 and 17. For instance, independent claim 14 recites “programming instructions to enable the processor-based device to automatically perform a search of a database of solutions to medical device problems using data from the database containing historic data in response to data automatically transmitted from the remote medical device.” (Emphasis added). Independent claim 17 recites similar subject matter.

In contrast, Babula only appears to disclose embodiments in which data transfers are initiated by a user. For example, “FIG. 11 illustrates exemplary logic for composing and transmitting a query via the graphical user interface and uniform platform.” Babula, paragraph 0054. In such an arrangement, a “query is composed when the system user enters key words or phrases related to a question or problem.” *Id.* Because Babula only appears to disclose user initiated contact with a remote database, it does not teach performing database searches based on data automatically transmitted from a remote medical device. Because the Babula reference fails to disclose such an element, the cited reference fails to anticipate independent claims 14 and 17.

For at least these reasons, Applicants respectfully request withdrawal of the rejection under 35 U.S.C. § 102 and allowance of claims 1-10 and 13-22.

**Rejections under 35 U.S.C. § 103**

In the Office Action, the Examiner rejected claim 12 under 35 U.S.C. § 103(a) as being unpatentable over Babula as applied to claims 1-10 and 13-22 in view of Schramm-Apple et al., U.S. Publication No. 2003/0217159. For at least the reasons noted above with regard to independent claim 9, from which claim 12 depends, Applicants assert that the cited references, whether considered separately or in a hypothetical combination, do not disclose *all* of the claimed features of claim 12. Therefore, Applicants request that the Examiner withdraw the rejection of claim 12.

**Conclusion**

In view of the remarks and amendments set forth above, Applicants respectfully request allowance of the pending claims. If the Examiner believes that a telephonic interview will help speed this application toward issuance, the Examiner is invited to contact the undersigned at the telephone number listed below.

Respectfully submitted,

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